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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/465,600	12/17/1999	ALEX I. EYDELBERG	INTL-0304-US	INTL-0304-US 9073	
7590 02/20/2004		EXAMINER			
TIMOTHY N TROP			HA, LEYNNA A		
TROP PRUNER HU & MILES PC 8554 KATY FREEWAY STE 100 HOUSTON, TX 77024			ART UNIT	PAPER NUMBER	
			2135	~	
			DATE MAILED: 02/20/2004		

Please find below and/or attached an Office communication concerning this application or proceeding.

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	Application No.	Applicant(s)	μ_
	09/465,600	EYDELBERG, ALEX I.	
Office Action Summary	Examiner	Art Unit	
	LEYNNA T. HA	2135	
The MAILING DATE of this communication app Period for Reply	pears on the cover sheet with the	correspondence address	
A SHORTENED STATUTORY PERIOD FOR REPL THE MAILING DATE OF THIS COMMUNICATION.  - Extensions of time may be available under the provisions of 37 CFR 1.1 after SIX (6) MONTHS from the mailing date of this communication.  - If the period for reply specified above is less than thirty (30) days, a repl If NO period for reply is specified above, the maximum statutory period Failure to reply within the set or extended period for reply will, by statute Any reply received by the Office later than three months after the mailin earned patent term adjustment. See 37 CFR 1.704(b).	136(a). In no event, however, may a reply be ly within the statutory minimum of thirty (30) d will apply and will expire SIX (6) MONTHS froe, cause the application to become ABANDON	timely filed ays will be considered timely. m the mailing date of this communication. NED (35 U.S.C. § 133).	
Status			
1) Responsive to communication(s) filed on	·		
,	 s action is non-final.		
3) Since this application is in condition for allowa	nce except for formal matters, p	rosecution as to the merits is	
closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11,	453 O.G. 213.	
Disposition of Claims			
4)  Claim(s) 1-30 is/are pending in the application 4a) Of the above claim(s) is/are withdra 5)  Claim(s) 1-30 is/are allowed. 6)  Claim(s) is/are rejected. 7)  Claim(s) is/are objected to. 8)  Claim(s) are subject to restriction and/or	wn from consideration.		
Application Papers		·	
9) The specification is objected to by the Examine 10) The drawing(s) filed on is/are: a) accomposite and applicant may not request that any objection to the Replacement drawing sheet(s) including the correct 11) The oath or declaration is objected to by the Example 11.	cepted or b) objected to by the drawing(s) be held in abeyance. Setion is required if the drawing(s) is c	ee 37 CFR 1.85(a). objected to. See 37 CFR 1.121(d).	
Priority under 35 U.S.C. § 119			
12) Acknowledgment is made of a claim for foreign a) All b) Some * c) None of:  1. Certified copies of the priority document 2. Certified copies of the priority document 3. Copies of the certified copies of the priority application from the International Burea * See the attached detailed Office action for a list	ts have been received. ts have been received in Applica prity documents have been recei uu (PCT Rule 17.2(a)).	ation No ved in this National Stage	
Attachment(s)			
<ol> <li>Notice of References Cited (PTO-892)</li> <li>Notice of Draftsperson's Patent Drawing Review (PTO-948)</li> <li>Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)</li> <li>Paper No(s)/Mail Date</li> </ol>	4) Interview Summa Paper No(s)/Mail  5) Notice of Informat 6) Other:		

#### **DETAILED ACTION**

- 1. Claims 1-30 has been reexamined and rejected under 35 U.S.C. 102(e).
- **2.** Examiners Response.
- **3.** Conclusion Final Rejection.

#### Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1-30 are rejected under 35 U.S.C. 102(e) as being unpatentable by Rakavy, Et. Al. (US 6,324,644).

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### As per claim 1:

Rakavy, et al. discloses a method comprising:

selectively loading either a first module of the basic input/output system or a second module of the basic input/output system based on a system state that indicates a connection to a network; [see col.6, lines 24-43]

executing said first basic input/output system module; and

# [see col.6, lines 47-60]

dynamically linking to said second basic input/output system module.

[see col.12, line 56 thru col.13, line 2 and col.15, lines 3-13]

#### As per claim 2:

Rakavy, et al. discloses a method of claim 1 further comprising:

storing said first module of a basic input/output system for a processor-based system on a first storage device prior to execution; [see col.6, lines 45-56]

storing said second module of the basic input/output system on a second storage device prior to execution; and [see col.5, lines 47-51]

enabling said second module to be executed conditionally depending on a state of said processor-based system. [see col.7, lines 13-26 and col.8, lines 7-29]

#### As per claim 3:

Rakavy, et al. teaches a method of claim 2 wherein storing said second module includes storing said second module in a storage associated with a network

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server accessible to said processor-based system over a network. [see FIGs.1

and 7]

As per claim 4:

Rakavy, et al. teaches a method of claim 1 further including detecting said

system state during the boot sequence. [see col.8, lines 44-65]

As per claim 5:

Rakavy, et al. teaches a method of claim 4 including detecting whether or not

the system is connected to a network during the boot operation. [see col.9, lines

23- 43]

As per claim 6:

Rakavy, et al. teaches a method of claim 1 including dynamically linking to one

of a plurality of modules, and exporting and offset to an entry point in one

module to another module. [see col.7, lines 25-33 and col.8, lines 1-6]

As per claim 7:

Rakavy, et al. teaches a method of claim 6 including storing a secondary entry

point in a module to locate a function within the module. [see col. 8, lines 7-29]

As per claim 8:

Rakavy, et al. teaches a method of claim 7 including developing a segment

address for said second module at run time. [see FIG.3A]

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As per claim 9:

Rakavy, et al. teaches a method of claim 8 including providing a descriptor

table which indicates a segment address for said second module. [see col.15,

lines 26-43]

As per claim 10:

As rejected on the same rationale as applied in claim 1.

As per claim 11:

As rejected on the same rationale as applied in claim 2.

As per claim 12:

As rejected on the same rationale as applied in claim 3.

As per claim 13:

Rakavy, et al. teaches an article of claim 11 further storing instructions that

cause a processor-based system to execute said second module conditionally

depending on whether or not the processor-based system is coupled to a

network. [see col.9, lines 5-42]

As per claim 14:

Rakavy, et al. teaches an article of claim 11 further storing instructions that

cause a processor-based system to selectively access either a first module

setting forth a first authentication protocol in a first storage device or a second

module setting forth a second authentication protocol in a second storage

device. [see col.13, line 40 thru col.14, line 49]

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# As per claim 15:

Rakavy, et al. teaches an article of claim 11 further storing instructions that cause a processor-based system to dynamically link said first and second modules. [see col.12, line 56 thru col.13, line 2 and col.15, lines 3-13]

# As per claim 16:

As rejected on the same rationale as applied in claim 4.

#### As per claim 17:

As rejected on the same rationale as applied in claim 5.

#### As per claim 18:

As rejected on the same rationale as applied in claim 6.

# As per claim 19:

As rejected on the same rationale as applied in claim 7.

# As per claim 20:

As rejected on the same rationale as applied in claim 8.

#### As per claim 21:

As rejected on the same rationale as applied in claim 9.

#### As per claim 22:

Rakavy, et al. discloses a processor-based system comprising:

a processor; [see col.5, lines 46-48]

a first basic input/output system module executable by said processor;

and [see col.6, lines 24-63]

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a second basic input/output system module executable by said processor, said second module being dynamically linked [see col.12, line 56 thru col.13, line 2 and col.15, lines 3-13] to said first module after selectively loading either said first module of the basic input/output system or said

second module of the basic input/output system based on a system state that

indicates a connection to a network [see col.6, lines 24-63].

As per claim 23:

Rakavy, et al. teaches a system of claim 22 including a detector that detects a system state to determine whether said processor executes said second

module. [see col.9, lines 2-42]

As per claim 24:

Rakavy, et al. teaches a system of claim 22 including a first storage for said

first module and a storage second module for said second module, said second

storage being coupled to said processor-based system over a network. [see

FIGs.1 and 2]

As per claim 25:

Rakavy, et al. teaches a system of claim 24 wherein said detector detects

information about network access. [see col.9, lines 2-42]

As per claim 26:

Rakavy, et al. teaches a system of claim 25 wherein said first and second

modules include different authentication protocols. [see col.9, lines 43-62 and

col.13, lines 26-63]

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As per claim 27:

Rakavy, et al. teaches a system of claim 26 wherein said processor executes

said basic input/output system module on said second storage to implement a

network authentication protocol. [see col.13, lines 26-63]

As per claim 28:

Rakavy, et al. teaches a method of claim 22 wherein said first module

dynamically links to said second module, using an offset exported from said

second module. [see col.7, lines 11 thru col.8, lines 28]

As per claim 29:

Rakavy, et al. teaches a method of claim 28 wherein said first module uses a

secondary entry point to locate a function in said second module. [see col.8,

lines 5-28]

As per claim 30:

Rakavy, et al. teaches a method of claim 22 wherein said processor provides a

descriptor table which indicates a segment address for said second module.

[see col.15, lines 26-43 and FIG.3B]

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# Response to Amendment

5. The Examiner has examined the amended claims and in light of the new grounds of rejection, the Examiner maintains the rejection. Rekavy discloses selectively loading the BIOS based on the system state by having the ability to detect and load the network BIOS initialization entry point to give control to the network BIOS and allows multitasking between the conventional BIOS and the network BIOS (see col.6, lines 36-41). Rekavy further discusses more elaborately on the selectively loading of the BIOS based on the system state that indicates a connection to a network on col.7 thru col.8. Loading and executing in the real and protected modes are just additional details of Rekavy's invention and in fact has nothing to do with Applicant's claimed language for claims 1-30. The cited rejections above meets claims 1-30 as taught by Rekavy. Therefore, this Office Action is a Final rejection.

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#### Conclusion

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEYNNA T. HA whose telephone number is (703) 305-3853. The examiner can normally be reached on Monday - Thursday (7:00 - 5:00PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached on (703) 305-4393. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Lha

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